

## Message Text

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ACTION ARA-14

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 PM-05 H-01  
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SS-15 USIA-06 IO-13 DLOS-09 OES-07 /102 W  
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R 272045Z JAN 78  
FM AMEMBASSY BUENOS AIRES  
TO SECSTATE WASHDC 4324  
INFO AMEMBASSY BRASILIA  
AMEMBASSY LIMA  
AMEMBASSY LONDON  
AMEMBASSY MONTEVIDEO  
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E.O. 11652 N/A  
TAGS PBOR, PGOV, AR, CI  
SUBJECT ARGENTINA REJECTS BEAGLE AWARD

REF: A BUENOS AIRES 0628 B 77 BUENOS AIRES 9833 (NOTAL)

INTRRODUCTION AND SUMMARY: THE ARGENTINE GOVERNMENT  
ON WEDNESDAY, JANUARY 25 ISSUED A DECLARATION THAT  
DUE TO SERIOUS DEFECTS IN THE BEAGLE CHANNEL RULING  
GOA CONSIDERS THE FULING NULL AND VOID AND WILL NOT  
CONSIDER ITSELF BOUND TO HONOR THE AWARDS  
FINDINGS. AT THE SAME TIME IT REAFFIRMED  
ARGENTINE SOVEREIGNTY OVER "ALL LAND AND SEA  
TERRITORY IN THE ATLANTIC EAST OF THE CAPE HORN  
MERIDIAN, IN ACCORD WITH THE LETTER AND SPIRIT OF  
THE TREATIES OF 1881, 1893, AND 1902." IN AS  
ACCOMPANYING NOTE SENT TO THE CHILEAN FOREIGN  
MINISTRY, FOREIGN MINISTER MONTES ALSO ADVISED THE  
CHILEAN GOVERNMENT THAT ARGENTINA WOULD NOT RECOGNIZE ANY  
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CHILEAN CLAIMS BASED ON THE FINDINGS IN THE AWARD AND PROPSED  
BILATERAL NEGOTITATIONS TO RESOLVE THE DISPUTE IN A HARMONIOUS  
FASHION. THE BUENOS AIRES PRESS REPORTED THAT THE NEXT  
PRESIDENTIAL SUMMIT WOULD TAKE PLACE IN PUERTO MONTT, CHILE,  
ON FEBRUARY 6. THE MEETING WAS REPORTEDLY ARRANGED THROUGH  
PRESIDENT PINOCHETS PERSONAL ENVOY GENERAL TORO DAVILIA.  
CHILEAN AMBASSADOR ROJAS GALDAMES, WHO RECEIVED THE DECLARATION FROM

THE HANDS OF MONTES AT NOON WEDNESDAY, RETURNED TO SANTIAGO THE FOLLOWING DAY AND REPORTEDLY WILL BE REASSIGNED TO SPAIN. SANTIAGO'S JANUARY 26 FORMAL REJECTION OF ARGENTINA'S "NULLIFICATION STATEMENT" WAS WIDELY REPORTED HERE TODAY. END INTRODUCTION AND SUMMARY.

1. ON JANUARY 25 ARGENTINA RELEASED A DECLARATION STATING IT REGARDED AS NULL THE BEAGLE CHANNEL RULING, AND ITS INTENTION TO DEFEND ARGENTINE SOVEREIGNTY OVER LAND AND SEA TERRITORY EAST OF THE CAPE HORN MERIDIAN. THE DECLARATION, WHICH

TRACED THE ARGENTINE GOVERNMENT'S LONG AND FRUSTRATED EFFORTS TO RESOLVE THE JURISDICTIONAL DISPUTE BILATERALLY WITH CHILE, CLAIMS THAT ARGENTINA WAS FORCED TO TAKE THE VERY DIFFICULT STEP OF DECLARING THE AWARD NULL BECAUSE OF SERIOUS AND DAMAGING ERRORS COMMITTED BY THE INTERNATIONAL COURT. THE DECLARATION LISTS SIX CATEGORIES OF ERRORS COMMITTED:

(A) MISINTERPRETATION OF THE ARGENTINE POSITION: THE ARGENTINE THESIS WAS THAT THE MOUTH OF THE BEAGLE CHANNEL BEGINS NORTH OF LENNOX ISLAND AND RUNS BETWEEN NAVARINO AND PICTON ISLANDS, NOT THAT IT EXTENDS ALONGSIDE LENNOX ISLAND AS SUSTAINED BY THE COURT, ACCORDING TO THE DEFINITIVE STATEMENT MADE HERE, ARGENTINA'S CLAIM TO LENNOX IS IN ITS CHARACTER AS AN ATLANTIC ISLAND, NOT AS AN ISLAND SITUATED IN THE BEAGLE CHANNEL. THIS FUNDAMENTAL MISREPRESENTATION, ARGENTINA ASSERTS, DISTORTS THE ENTIRE ARGUMENTATION AS WELL AS THE RATIONALE FOR THE COURT'S DECISION.

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(B) OPINIONS PROONOUNCED OVER LITIGIOUS QUESTIONS NOT SUBMITTED TO ARBITRATION: THE COURT EXCEEDED ITS JURISDICTION, THE ARGENTINE STATEMENT CLAIMS, BY RULING ON ISLANDS OUTSIDE OF THE "HAMMER" (THAT AREA OFFICIALLY PUT TO ARBITRATION) AND BY MAKING PRONOUNCEMENTS ON THE EASTERN MOUTH OF THE STRAITS OF MAGELLEN.

(C) CONTRADICTORY REASONING: THE ARGENTINE STATEMENT CLAIMS THE COURT CONTRADICTS ITSELF IN SOMETIMES REFERRING TO SOME ISLANDS AS BEING "INSIDE" THE CHANNEL AND ELSEWHERE IN THE AWARD AS BEING "SOUTH" OF THE CHANNEL. ALSO THE COURT AT ONE POINT DISCARDS CONFLICTING HISTORICAL DOCUMENTS, BUT THE LATER ACCEPTS THE ONE SUPPORTING THE CHILEAN THESIS AND REJECTS THE ONE SUPPORTING ARGENTINA.

(D) EXCESSES IN INTERPRETATION: THE COURT GOES BEYOND ITS INSTRUCTIONS, SAYS GOA, TO INTERPRET THE TREATY OF 1881, AND INSTEAD ACTUALLY REVISES THAT TREATY TO SUIT ITS FINDINGS. TERRITORIAL JURISDICTION IN PATAGONIA AND ON ISLA GRANDE, AND THE DISPOSITION OF LENNOX, PICTON AND NUEVA IN WAYS OTHER THAN THOSE INTENDED IN THE 1881 TREATY.

(E) HISTORICAL AND GEOGRAPHICAL ERRORS: ARGENTINA ASSERTS THAT THE COURT MADE BASIC FACTUAL ERRORS, SUCH AS PLACING STEWARD, O'BRIEN AND LONDONERRY ISLANDS SOUTH OF THE CHANNEL

WHEREAS IN FACT THEY HAVE NO RELATION TO THE CHANNEL, AND BY INVENTING AN "ARCHIPELAGO OF CAPE HORN" WHICH IS NON EXISTENT. GOA ALSO CHARGES THAT THE COURT REFUSED TO ACKNOWLEDGE THE PROTOCOL OF 1883 AS BEING PERTINENT TO ITS CONSIDERATION OF THE TREATY OF 1881, WHEN IT IS CLEAR THAT THE PROTOCOL IS UNDERSTOOD BY BOTH PARTIES AS AN ADDENDUM AND CLARIFICATION OF THE TREATY OF 1881. THE PROTOCOLS IMPORTANT STATEMENT THAT CHILE WILL HAVE NO PRETENSIONS IN THE ATLANTIC NOR ARGENTINA IN THE PACIFIC IS THEREFORE WRONGLY IGNORED BY THE COURT. TECHNICAL AND GEOGRAPHICAL ERRORS IN THE COURTS MAP TRACING THE BOUNDARY LINE ALSO PUTS INTO QUESTION ITS RELIABILITY.

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(F) LACK OF BALANCE IN THE APPRECIATION OF THE CASE AND PROOFS OF BOTH PARTIES: THE COURT BASED ITS FINDINGS NOT ON THE VALIDITY OF THE CHILEAN ARGUMENTS BUT BY THE SYSTEMATIC ELIMINATION OF ARGENTINAS ARGUMENTS, ACCORDING TO GOA. THE COURT WAS OBVIOUSLY PREJUDICED IN CHILES FAVOR, IGNORING OR CAPRICIOUSLY TREATING ARGENTINAS ARGUMENTS, NOT TO MENTION OTHER ERRORS IN INTERPRETATION AND JUDGMENT.

2. COMMENT: AS INDICATED IN REFTEL B, ARGENTINE DIPLOMATS WHO WORKED ON THE BEAGLE CASE (AND, NO DOUBT, WHO DRAFTED THE ARGENTINE DECLARATIONS SIX POINTS) HONESTLY FELT THE COURTS FINDING WERE UNFAIRLY WEIGHTED IN CHILES FAVOR. NATURALLY,

ARGENTINA AS THE LOSING PARTY WAS SURE TO PICK OUT DISCREPANCIES AND ERRORS THAT IT WOULD NOT HAVE BOthered WITH HAD IT BEEN SATISFIED WITH THE AWARD. IN FACT UNTIL THE END IT WAS APPARENT THAT FOREIGN MINISTRY AS WELL AS OTHER GOVERNMENT OFFICIALS TRIED TO FIND A WAY TO PERMIT ARGENTINA TO ACCEPT THE RULING -- AS IT PERTAINED TO THE ISLANDS PICTON, NUEVA AND LENNOX -- WHILE NOT GIVING AWAY ITS LIMITED OFFICIAL USE

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SOVEREIGNTY OVER VAST AREAS IN THE SOUTHERN ATLANTIC. THE FAILURE OF SUCCESSIVE ARGENTINE MISSIONS TO NEGOTIATE SUCCESSFULLY AND UNDERSTANDING WITH CHILE TO THAT EFFECT WAS DEEPLY REGRETTED HERE, AS WAS MADE CLEAR IN THE ARGENTINE DELCARATION AND REPEATED IN PRESS COMMENT TODAY. TODAYS PRESS REPORTS WERE MARKEDLY SUBDUED, MERELY NOTING DOWN THE CHILEAN REPUDIATION OF ARGENTINAS DECLARATION AND LOOKING AHEAD TO THE NEWLY RESCHEDULE PRESIDENTIAL MEETING IN CHILE. (WE UNDERSTAND FROM CONFIDENTIAL SOURCES THAT GOA INSTRUCTED THE PRESS TO PLAY THE ISSUE QUIETLY AND RESPONSIBLY, AND TO AVOID CONFRONTATIONAL HARANGUES AGAINST CHILE.)

3. ARGENTINA DOES NOT DISPUTE THE CHARGE THAT ACCORDING TO ITS 1971 BILATERAL AGREEMENT WITH CHILE THE FINDINGS ARE LEGALLY BINDING AND NON APPEALABLE, NOR DOES IT ASK THE COURT TO RECONSIDER; IT SIMPLY DECLARES THAT ARGENTINA WILL NOT EXECUTE THE COURTS RULING, NOR WILL IT ACCEPT CHILEAN

PRETENSIONS IN THE SOUTHERN ATLANTIC BASED ON THE AWARD. ITS BASING ITS "NULLIFICATION" STATEMENT ON JURIDICAL ERRORS IS

NOT SO MUCH TO REOPEN THE CASE AS TO DEFEND ITS DECISION TO DISREGARD THE RULING.

4. ARGENTINA CLEARLY BELIEVES THE NEXT HURDLE IS THAT OF PUBLIC RELATIONS: IT IS BARGAINING THAT ITS DIPLOMATIC EFFORTS COUPLED WITH CHILES "BAD BOY" IMAGE IN THE WORLD CAN HEAD OFF A SHOW OF INTERNATIONAL SUPPORT CHILE. STILL UPPERMOST IN MOST MINDS AT PRESENT IS THE HOPE THAT CHILES AGREEING TO BILATERAL NEGOTIATIONS WILL SOFTEN ARGENTINAS APPEARING TO BE THE IGNOBLE AND RENEGING PARTY. CHILES FIRM REPLY TO ARGENTINA HAS LEFT NO DOUBT THAT IT CONSIDERS THE RULING TO BE INDEED VALID AND IN FORCE AND

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THAT THERFORE THE THREE ISLANDS ARE LEGITMATELY CHILENA TERRITORY. CHILES AGREEMENT TO RESUME TALKS AT A SECOND

PRESIDENTIAL SUMMIT, THEN, WILL PRESUMABLY BE TO DISCUSS  
THE DISPUTED SEA BOUNDARIES. (REPORTEDLY THE TWO  
GOVERNMENTS ARE NOW CONSIDERING AN ARGENTINE OFFER -- FIRST  
EXTENDED BY EARLIER EMISSARY GENERAL TORTI -- TO  
INTERNATIONALIZE THE ISLANDS IN THE DISPUTED AREA AND A RECENT  
CHILEAN PROPOSAL TO ESTABLISH A JOINT PATRIMONIAL SEA IN THE  
DISPUTED AREA.) AS THE NEWSPAPERS INDICATE, THE TIME IS RIPE  
NOW TO WORK OUT A COMPREHENSIVE SOLUTION TO THIS AGE OLD  
BILATERAL DISPUTE. THE PROBABLE ALTERNATIVE AT THIS POINT  
IS TO RETURN THE ISSUE TO THE STAUS QUO ANTE, A CONSTANT IRRITANT  
AND POTENTIAL SOURCE OF CONFLICT BETWEEN THE TWO NEIGHBORS.  
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## Message Attributes

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